

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD SCOTT,

Plaintiff,

v.

KEITH DEVOS, et al.,

Defendant.

Case No. 3:25-cv-05026-TMC

ORDER ADOPTING REPORT AND
RECOMMENDATION

The Court, having reviewed the Report and Recommendation of the Honorable Michelle L. Peterson, United States Magistrate Judge, any objections or responses to that, and the remaining record, the Court finds and ORDERS:

(1) The Court adopts the Report and Recommendation in part.

- a. Mr. Scott has not filed objections to the Report and Recommendation. After the Report and Recommendation was filed, Mr. Scott filed two additional motions—a motion for protective order (Dkt. 24) and a motion for joinder of parties (Dkt. 25). Neither motion has merit, nor can either motion reasonably be construed as an objection to the Report and Recommendation. Nonetheless, the Court has conducted de novo review of the Report and Recommendation.

1 Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th
2 Cir. 2003) (en banc).

3 b. The Court agrees with and adopts the conclusions in the Report and
4 Recommendation that Mr. Scott's complaint fails to state a claim, that further
5 amendment would be futile, that the complaint should be dismissed, and that
6 Mr. Scott's pending motions should be denied.

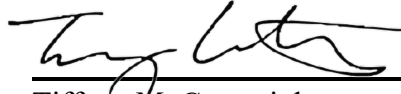
7 c. After the Report and Recommendation was filed, however, Mr. Scott filed a
8 document titled "Notice of 42b Withdrawal." Dkt. 26. The document states:
9 "Come now Plaintiff 77yr old Scott with his noti[c]e of withdrawal under 42b
10 of the above captioned [sic] complaint." *Id.* at 1. Federal Rule of Civil
11 Procedure 42 refers to consolidation or separation of trials. Rule 41, however,
12 allows a plaintiff to voluntarily dismiss an action before the opposing party
13 serves either an answer or a motion for summary judgment. Fed. R. Civ.
14 P. 41(a)(1)(A). Although it is not entirely clear that this is what Mr. Scott
15 intended to do, because he is proceeding pro se, and out of an abundance of
16 caution, the Court will dismiss his complaint *without* prejudice, as it would be
17 through a voluntary dismissal. Fed. R. Civ. P. 41(a)(1)(B).

18 (2) This action is therefore DISMISSED WITHOUT PREJUDICE.

19 (3) All pending motions are denied.

20 The Clerk is directed to send uncertified copies of this Order to all counsel of record, to
21 any party appearing pro se at said party's last known address, and to the Honorable Michelle L.
22 Peterson.

1 Dated this 2nd day of April, 2025.

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3 Tiffany M. Cartwright
4 United States District Judge
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